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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of

MM Docket No. 93-300

STEPHEN O. MEREDITH )

File No. BPH-920430MD

AL HAZELTON )

File No. BPH-920430ME

For Construction Permit for a  
New FM Station on Channel  
243C1 in Audubon, IowaTo: The Honorable John M. Frysiak  
Administrative Law Judge**REPLY**

Al Hazelton ("Hazelton"), by his attorneys and pursuant to Sections 1.229 and 1.294 of the Commission's Rules, hereby replies to the Opposition to Petition to Enlarge Issues in this proceeding by Stephen O. Meredith ("Meredith") on March 3, 1994. In support thereof, Hazelton states as follows:

1. The issue at hand in this matter is whether Meredith was required to report to the Commission, as part of the discovery process, all mass media interests he holds. In this matter, Meredith has refused, to this day, to reveal any but the most cursory information as to what his interests in TA Interests are. Hazelton submits that Meredith was required to make full disclosure of these interests and his failure to do so is a material misrepresentation of a decisionally significant point.<sup>1</sup>

<sup>1</sup> Meredith makes reference to the Court of Appeals' Bechtel decision as rendering this matter meaningless. As Meredith is well aware, Bechtel dealt with the integration criterion and this

2. The heart of the argument herewith, which Meredith seeks to avoid by references to attribution, is what is counted in the diversification analysis. Contrary to Meredith's claims, Doylan Forney, 68 RR 2d 366 (1990), is exactly on point. Doylan Forney teaches that the diversification factor in comparative selection and the attribution rules, for multiple ownership cases, are two different policies. Id. at 373. Based on the standards set in the Policy Statement on Comparative Hearings, 1 FCC2d 393 (1965), diversification is predicated on assuring "maximum diffusion" of the media, through the selection of parties that will bring new media voices to communities. Id. The multiple ownership rules, on the contrary, deal with control and the concentration of ownership in the media, all within mandated limits. Id.

3. Simply put, a party may have an interest in mass media properties that is relevant for diversification purposes and for no other Commission purpose. That is what exists here, where Meredith apparently holds warrants to acquire stock in mass media entities. Those unexercised warrants have no relevancy to Meredith's ability to acquire a broadcast station under the multiple ownership rules, since unexercised options are not considered. However, the existence of these interests are, as the Commission held in Doylan Forney, specifically relevant to how the diversification analysis is carried out. Id. Under those circumstances, the media interests should have been reported and considered by the Commission.

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matter involves diversification.

4. The cases relied on by Meredith are not relevant to this issue. Pittsfield Community TV Associates, 99 FCC 2d 1321, 1322 (Rev. Bd. 1983), involved whether a disclosed interest in a publicly traded broadcast licensee should result in a comparative demerit. Here, of course, there has been no disclosure of the mass media interest, and Meredith has made no claim that he can accrue an interest in a publicly held company. Likewise, Daytona Broadcasting Co., 103 FCC 2d 931 (1986), deals with limited partnership interests. Meredith does not hold a warrant to acquire a limited partnership interest. His warrant apparently involves the right to acquire stock, which has always been considered in the diversification analysis.

5. Meredith argues that his interests are of such a minor nature as not to be worth consideration. They may well be. However, the crucial concern is that the Commission, not Meredith, determine what is relevant to this analysis.

6. In sum, the Commission has long held that for diversification purposes, a legal right that an applicant holds to acquire interests in broadcast licensees must be considered in order to determine which party will provide the most diffusion in media voices. There is no issue that Meredith holds some form of legal right to obtain interests in mass media licensees. The impact on the diversification of the media is yet to be determined. However, Meredith should not have unilaterally refused to disclose his interest. Owing to his intentional failure not to disclose

these interests, an issue should be designated to determine what his media interests are and why they were not revealed.

WHEREFORE, it is respectfully requested that the Petition to Enlarge Issues be granted.

Respectfully submitted,

AL HAZELTON

By: 

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Dated: March 15, 1994

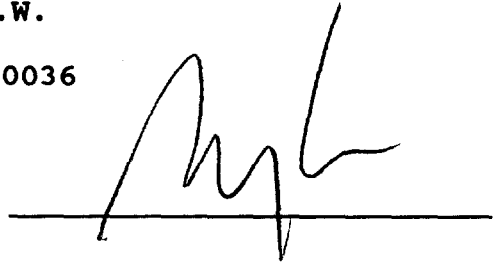
**CERTIFICATE OF SERVICE**

I, Barry A. Friedman, do hereby certify that I have, on this 15th day of March, 1994, served a copy of the foregoing, "Reply," on the following parties by first-class mail, postage prepaid:

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A handwritten signature in dark ink, appearing to read 'B. Friedman', is written over a horizontal line.

\* By Hand